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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/662,965 | 09/15/2000 | GETHER IRICK JR. | 05015.0365U1 | 3021 |

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06/18/2002

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EXAMINER

SHORT, PATRICIA A

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 06/18/2002

16

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-10

Office Action Summary

| | | |
|-------------------------------------|-------------------------------------|--|
| Application No. 09/662965 | Applicant(s) Irlick et al | |
| Examiner Shont | Group Art Unit 1712 | |

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on April 24, 2002
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-5, 7-18, 20-22, 24-28 is/are pending in the application.
- Of the above claim(s) 8, 12, 13, 16, 20 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-5, 7, 9-11, 14, 15, 17, 18, 21, 22, 24-28 is/are rejected.
- ☒ Claim(s) 7, 24 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 9-11, 14, 15, 17, 18, 21, 22 and 24-28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Blumenthal. The rejection is applied as in the previous Office action. Applicant argues that Blumenthal does not teach the diol component b1(i) required in the aliphatic-aromatic copolyester of the claims. The most preferred diols for use in preparing the aliphatic-aromatic copolyester of the reference are diethylene glycol, neopentyl glycol and cyclohexanedimethanol. See col. 4, lines 37-39. These diols are included in the group of diols required for component b1(i) in the claims. Thus, use of an aliphatic-aromatic copolyester having the diol component required in the claims is anticipated or would have been obvious over the reference.

Claims 1-5, 9-11, 14, 15, 17, 18, 21, 22 and 25-28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over each of Schoenberg, Rutherford, Iovine and Kauffman. The rejections are applied as in the previous Office action.

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Applicant argues that none of the references teach 100% of a diol as required in the aliphatic-aromatic copolyester in the claims. The claims do not require an aliphatic-aromatic copolyester, but rather one or more of 1) an aliphatic-aromatic copolyester, 2) an aliphatic polyester or 3) a cellulose ester. Claims 7 and 24 which require the aliphatic-aromatic copolyester are not included in these rejections.

Claims 7 and 24 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form. The glycol in line 4, of Claims 7 and 24 is not part of the group of b1(i) diols in Claims 1 and 22, respectively. It appears that the glycol should be "diethylene glycol".

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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June 3, 2002

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